THE BOMBAY CHILDREN ACT, 1948.

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BOMBAY ACT No. LXXI OF 1948.[1]

[THE BOMBAY CHILDREN ACT, 1948.]

[*31st December 1948*]

Amended by Bom. 53 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 23 of 1951.
,, ,, ,, 8 of 1954.

An Act to consolidate and amend the law for the custody, protection, treatment, and rehabilitation of children and youthful offenders and for the trial of youthful offenders in the Province of Bombay.

WHEREAS it is expedient to consolidate and amend the law for the custody, protection, treatment and rehabilitation of children and youthful offenders and for the trial of youthful offenders in the Province of Bombay and for certain other purposes specified herein; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Children Act, 1948.

(*2*) It extends to the whole of the [2][State] of Bombay.

Commencement.

2. Section 1 shall come into force at once. The rest of the Act, or any provision thereof, shall come into force in any area on such date as the [3][State] Government may, by notification in the *Official Gazette*, specify.

Saving.

3. The [3][State] Government may, by notification in the *Official Gazette*, direct that all or any of the provisions of the Act shall not apply to any class of children or youthful offenders in the whole of the [2][State] or in any particular area.

Definitions.

4. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "adult" means a person who is not a child;

Bom. XXIII of 1945.

(*b*) "begging" means begging as defined in the Bombay Beggars Act, 1945;

Bom. XI of 1923.

(*c*) "brothel" means a brothel as defined in the Bombay Prevention of Prostitution Act, 1923;

(*d*) "certified school" means an industrial school established or any other school or institution certified by the [3][State] Government under section 25;

(*e*) "child" means a boy or a girl who has not attained the age of sixteen years;

II of 1930.

(*f*) "dangerous drug" means any article defined as "dangerous drug" in the Dangerous Drugs Act, 1930;

(*g*) "final order" means an order passed by a juvenile court or any court employed under section 8 to exercise the powers of a juvenile court, under the following sections, namely:—45 to 47, 71 to 76, 79, 81 to 84, 90 to 92, 101 and 103;

(*h*) "fit person" includes a fit person institution which in relation to the care of any child means any association or body of individuals whether incorporated or not established for or having for its object the reception or protection of children or the prevention of cruelty to children and which undertakes to bring up or to give facilities for bringing up any child entrusted to its care in conformity with the religion of its birth;

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[1]For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 421.
[2]This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[3]This word was substituted for the word "Provincial" *ibid*

(*i*) "guardian" in relation to a child or youthful offender includes any person who in the opinion of the court having cognizance of any proceedings in relation to the child or youthful offender has for the time being the actual charge of, or control over, the said child or youthful offender;

(*j*) "immoral behaviour" includes any act or conduct which is indecent or obscene;

(*k*) "Juvenile Court" means a court established under section 7 of this Act;

(*l*) "place of safety" includes a remand home, or any other suitable place or institution, the occupier or manager of which is willing temporarily to receive a child or where such remand home or other suitable place or institution is not available, in the case of a male child only, a police station in which arrangements are available or can be made for keeping children in custody separately from other offenders:

(*m*) "prescribed" means prescribed by rules made under this Act;

(*n*) "probation of good conduct" means the release of a youthful offender on probation of good conduct on his personal recognizance. The expression 'probation of good conduct order' shall be construed accordingly;

(*o*) "prostitution" means offering of the body for indiscriminate lewdness for hire or otherwise, notwithstanding anything contained in the Bombay Prevention of Prostitution Act, 1923; Bom. XI of 1923.

(*p*) "society" means a body or association of individuals, whether incorporated or not;

(*q*) "supervision" means the placing of a child under the control of a probation officer or other person for the purpose of securing proper care and protection of the child by his parent, guardian, relation or any other fit person to whose care the child has been committed. The expression 'supervision order' shall be construed accordingly;

(*r*) "voluntary home" means any place for the reception of children maintained wholly or partly by voluntary contributions; and

(*s*) "youthful offender" means any child who has been found to have committed an offence.

(*2*) Words and expressions used and not defined in this Act but defined in the Code of Criminal Procedure, 1898, shall have the meanings assigned to them in that Code. V of 1898.

Continuation of proceedings against attaining child on his specified age.

5. For the purposes of this Act, a person shall be deemed to be a child, if at the time of the initiation of any proceedings against him under this Act or at the time of his arrest in connection with which any proceedings are initiated against him under this Act, such person has not attained the age is specified in clause (*e*) of section 4:

Provided that if during the course of the proceedings under this Act such person attains the age specified in the said clause, the proceedings already commenced shall be continued and orders may be passed in respect of such person under this Act as if such person was a child notwithstanding anything to the contrary in this Act.

Reformatory Schools Act, 1897, and certain provisions of Code of Criminal Procedure, 1898, not to apply.

6. The provisions of the Reformatory Schools Act, 1897, and of sections 29B and 399 of the Code of Criminal Procedure, 1898, shall cease to apply to any area in which Parts II to XI of this Act have been brought into operation. VIII of 1897. V of 1898.

PART II.

POWERS AND FUNCTIONS OF COURTS HAVING JURISDICTION UNDER THE ACT.

Juvenile Courts.

7. For the purposes of this Act, the [1][State] Government may, by notification in the *Official Gazette*, establish one or more juvenile courts for any local area.

Courts empowered to exercise powers of juvenile courts.

8. The powers conferred upon a juvenile court under this Act shall, subject to the provisions thereof, be also exercisable by the following courts, whether trying any case originally, or on appeal or in revision, as the case may be—

(*a*) the High Court,
(*b*) a Court of Session,
[2]* * * *
[2]* * * *
(*e*) a salaried Presidency Magistrate,
(*f*) a salaried Magistrate of the First Class.

Powers of juvenile courts and other courts mentioned in section 8.

9. Save as otherwise provided in this Act,—

(*1*) where a juvenile court has been established for any local area, such court shall try all cases in which a child is charged with the commission of an offence and shall deal with and dispose of all other proceedings under this Act, but shall not have power to try any case in which an adult is charged with an offence under Part VI of this Act;

(*2*) where a juvenile court has not been established for any local area, no court other than courts empowered under section 8 to exercise the powers of a juvenile court shall have power to try any case in which a child is charged with the commission of an offence or to deal with or dispose of any other proceeding under this Act.

No joint trial of child and adult in area where juvenile court exists.

10. (*1*) Notwithstanding anything contained in section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, no child shall be charged with or tried for any offence together with an adult if, a juvenile court has been established for the area where the trial of such case is to take place.

V of 1898.

(*2*) If a child is accused of an offence for which under section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, such child and the adult could, but for the provisions of sub-section (*1*), have been tried together the court taking cognizance of the offence shall direct separate trials of the child and the adult; if a juvenile court has been established for the local area, the child shall be tried by the juvenile court and the adult shall be tried separately by a court having jurisdiction to try the offence.

V of 1898.

Procedure in appealable summons cases to be followed by juvenile courts and magistrates' courts in trials of children.

11. A juvenile court and in a case in which a child is not being tried jointly with an adult, a Magistrate empowered under section 8 to exercise the powers of a juvenile court shall, as far as practicable and subject to the provisions of this Act, follow the procedure provided by the Code of Criminal Procedure, 1898, for summary trials in summons cases in which an appeal lies.

V of 1898.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Clauses (c) and (d) were deleted by Bom. 23 of 1951, s. 2, Schedule—Part III.

Sitting, etc., of juvenile courts, etc.

12. (*1*) A juvenile court shall hold its sittings at such places, on such days and in such manner as may be prescribed.

(*2*) In the trial of a case in which a child is charged with an offence and is not being tried jointly with an adult a court shall, as far as may be practicable, sit in a different building or room from that in which the ordinary sittings of the court are held, or on different days, or at different times from those at which the ordinary sittings of the court are held.

Adult to be committed to sessions in a case to be committed to sessions.

13. In the trial of a case in which a child is being tried together with an adult in accordance with the provisions of this Act, if the magistrate trying the case comes to the conclusion that the case is a fit one for committal to the court of session, he shall separate the case in respect of the child from that in respect of the adult and shall direct the adult alone to be committed to the court of sessions for trial and shall proceed with the trial of the case in respect of the child notwithstanding anything in the Code of Criminal Procedure, 1898, or any other law for the time being in force. V of 1898.

Appearance of legal practitioners before juvenile courts.

14. Notwithstanding anything contained in any law for the time being in force, a legal practitioner shall not be entitled to appear in any case or proceeding before a juvenile court, unless the juvenile court is of opinion that in public interests the appearance of a legal practitioner is necessary in such case or proceeding and authorises, for reasons to be recorded in writing a legal practitioner to appear in such case or proceeding.

Presence of persons in juvenile courts.

15. Save as provided in this Act, no person shall be present at any sitting of a juvenile court except—

(*a*) the members and officers of the court,

(*b*) the parties to the case before the court and other persons directly concerned in the case including the Police Officers,

(*c*) such other persons as the court specially authorises to be present.

Withdrawal of persons from juvenile courts.

16. If at any stage during the course of a trial of a case or proceeding, a juvenile court considers it expedient in the interest of the child to direct any person including the parent, guardian or the spouse of the child, or the child himself to withdraw, the court shall be entitled to give such direction and thereupon such person shall withdraw. If any person refuses to withdraw, the court may take steps to remove him.

Dispensing with attendance of child.

17. If at any stage during the course of the trial of a case or proceeding, the juvenile court is satisfied that the attendance of a child is not essential for the purposes of the hearing of the case or proceeding, the court may dispense with his attendance and proceed with the trial of the case in the absence of the child.

Withdrawal of persons from court when child is examined as witness.

18. If at any stage during the course of a trial of a case or proceeding in relation to an offence against or any, conduct contrary to, decency or morality, a child is summoned as a witness, any court trying the case or holding the proceeding may direct such persons as it thinks fit, not parties to the case or proceeding, their legal advisers and the officers concerned with the case or proceeding to withdraw. Such persons shall then withdraw. If any person refuses to withdraw, the court may take steps to remove him.

Attendance at court of parent of child charged with offence, etc.

19. (*1*) Where a child brought before a court under this Act has a parent or guardian such parent or guardian may in any case, and shall, if he can be found and if he resides within a reasonable distance, be required to attend the court before which any proceeding is held under this Act, unless the court is satisfied that it will be unreasonable to require his attendance.

(*2*) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of, or control over, the child :

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(*3*) The attendance of the parent of a child shall not be required under this section in any case where the child was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a court.

Committal to approved place of child suffering from dangerous disease and its future disposal.

20. (*1*) When a child who has been brought before a court under any of the provisions of this Act is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the court may send the child to a remand home or to any other place recognised to be an approved place in accordance with the rules made under this Act for such period as it may think necessary for the required treatment.

III of 1898. IV of 1912.

(*2*) Where a child is found to be suffering from leprosy or is of unsound mind, he shall be dealt with under the provisions of the Lepers Act, 1898, or the Indian Lunacy Act, 1912, as the case may be.

(*3*) Where a court has taken action under sub-section (*1*) in the case of a child suffering from an infectious or contagious disease, the court before restoring the said child to his partner in marriage, if there has been such or to the guardian, as the case may be, shall where it is satisfied that such action will be in the interests of the said child call upon his partner in marriage or the guardian, as the case may be, to satisfy the court by submitting to medical examination that such partner or guardian will not re-infect the child in respect of whom the order has been passed.

Factors to be taken into consideration in passing orders by courts.

21. For the purpose of any order which a court has to pass under this Act, the court shall have regard to the following factors :—

(*a*) the character and age of the child,

(*b*) the circumstances in which the child is living,

(*c*) the reports made by the Probation officer, and

(*d*) such other matters as may, in the opinion of the court, require to be taken into consideration in the interests of the child :

Provided that where a youthful offender is found to have committed an offence, the above factors shall be taken into consideration after the court has recorded a finding against the youthful offender that he has committed the offence.

Reports of Probation officers and other reports to be treated confidential.

22. The report of the Probation officer or any other report considered by the court under section 21 shall be treated as confidential :

Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or parent is living, the court may, if it thinks expedient, communicate the substance thereof to the child or parent concerned, as the case may be, and may give the child or parent an opportunity to produce evidence as may be relevant to the matters stated in the report.

Prohibition on publication of names, addresses, etc. of children involved in cases or proceedings under the Act.

23. No report in any newspaper, magazine or news-sheet of any case or proceeding in any court under this Act in which a child is involved shall disclose the name, address or school or include any particulars calculated to lead to the identification of any such child, nor shall any picture be published as being or including a picture of any such child :

Provided that for reasons to be recorded in writing the court trying the case or holding the proceeding may permit the disclosure of any such report, if in its opinion such disclosure is in the interests of child welfare and is not likely to affect adversely the interests of the child concerned.

Provisions of Criminal Procedure Code, 1898, to apply to trial of cases and conduct of proceedings under the Act unless excluded.

24. Except as expressly provided under this Act or the rules made thereunder, the procedure to be followed in the trial of cases and the conduct of proceedings under this Act shall be in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

PART III.

CERTIFIED SCHOOLS, REMAND HOMES AND OTHER INSTITUTIONS.

Establishment and certification of schools.

25. (*1*) The Provincial Government may establish and maintain industrial schools for the reception of children and youthful offenders.

(*2*) The Provincial Government may certify that any industrial school or other educational institution not established under sub-section (*1*) is fit for the reception of children or youthful offenders.

Declaration of places as Remand Homes.

26. The Provincial Government may, by notification in the *Official Gazette*, declare any particular place as a remand home for the purposes of this Act.

Conditions to be prescribed for fit person institutions and approved places.

27. The Provincial Government may prescribe conditions subject to which institutions or associations shall be recognised as "fit person institutions" and "approved places" for the purposes of this Act.

Management of certified schools.

28. (*1*) For the control and management of every school established under sub-section (*1*) of section 25, a superintendent and a committee of visitors shall be appointed by the Provincial Government and such superintendent and committee shall be deemed to be the managers of the school for the purposes of this Act.

(*2*) Every school certified under sub-section (*2*) of section 25 shall be under the management of a governing body, the members of which shall be deemed to be the managers of the school for the purposes of this Act.

Liabilities of managers.

29. (*1*) The managers of a certified school whether established or recognised by the Provincial Government and the managers of a fit person institution shall be consulted by the court before any child is committed to it.

(*2*) The managers of a certified school recognized by the Provincial Government may decline to receive any child committed to it under this Act :

Provided that when such school has once accepted any child, it shall be bound to teach, train, lodge, clothe and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school.

Medical inspection of Certified Schools and fit person institutions.

30. Any registered medical practitioner empowered in this behalf by the Provincial Government may visit any certified school or fit person institution at any time with or without notice to its managers in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the school or institution.

Power of Provincial Government to withdraw certificate.

31. (*1*) The Provincial Government if dissatisfied with the conditions, rules, management or superintendence of a certified school may at any time by notice served on the managers of the school declare that the certificate of the school is withdrawn as from a date specified in the notice and on such declaration the withdrawal of the certificate shall take effect and the school shall cease to be a certified school.

(*2*) The Provincial Government may, instead of withdrawing a certificate under sub-section (*1*), by notice served on the manager of the school, prohibit the admission of children or youthful offender to the school for such time as may be specified in the notice or until the notice is revoked :

Provided that before the issue of a notice under sub-section (*1*) or (*2*), a reasonable opportunity shall be giver to the managers of the school to show cause why the certificate may not be withdrawn or admission to the school may not be prohibited, as the case may be.

Resignation of certificate by managers.

32. The managers of a certified school may, on giving six months' notice in writing to the Provincial Government through the Chief Inspector of Certified Schools of their intention so to do, resign the certificate of the school and accordingly at the expiration of six months from the date of notice, unless before that time the notice is withdrawn, the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

Effect of withdrawal or resignation of certificate.

33. A child or youthful offender shall not be received into a certified school under this Act after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate :

Provided that the obligation of the managers to teach, train, lodge, clothe and feed any children or youthful offenders detained in the school at the respective dates aforesaid shall, except so far as the Provincial Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

Disposal of inmates on withdrawal or resignation.

34. When a school ceases to be a certified school the children or youthful offenders detained therein shall be either discharged absolutely or on such conditions as the Provincial Government may impose or transferred by order of the Chief Inspector of Certified Schools to some other certified school or fit person institution in accordance with the provisions of this Act relating to discharge and transfer.

Inspection of voluntary homes.

35. (*1*) The Provincial Government may cause any voluntary home to be visited and inspected from time to time at all reasonable hours by the Chief Inspector of Certified Schools or any member of the inspecting staff for the purpose of securing the health and welfare of the children and the sanitation of the premises.

(*2*) The Chief Inspector of Certified Schools or any member of his inspecting staff shall have power to enter a voluntary home at all reasonable hours and to make a complete inspection thereof and of all registers relating thereto for the aforesaid purposes.

(*3*) Where any voluntary home is for the reception of girls, the inspection shall, where practicable, be conducted by a woman authorised or appointed by the Chief Inspector of Certified Schools.

(*4*) If the Provincial Government is satisfied that the management of any voluntary home, or the accommodation for, or the treatment of, the children therein is unsatisfactory, it may cause to be served upon the person responsible for the management of the voluntary home such general or specific direction with respect to the matters aforesaid or any of them as it thinks expedient for the welfare of the children in the institution.

(*5*) A direction under the foregoing sub-section may be varied by a subsequent direction or withdrawn by the Provincial Government.

(*6*) Where any such direction is not complied with, the District Magistrate in the mofussil or the Chief Presidency Magistrate in Greater Bombay may, on the complaint of any person appointed for the purpose by the Provincial Government, cause a summons to be served upon the person in charge of the voluntary home and upon such other person as he may think fit and upon hearing the person summoned, may if he thinks fit, make an order for the removal of all children from the voluntary home.

(*7*) The District Magistrate or the Chief Presidency Magistrate, as the case may be, may, if he thinks fit, order that the direction shall be deemed to be modified to such extent as may be specified in such order and the direction shall have effect accordingly.

(*8*) Any order for the removal of all children from such voluntary home shall operate as an authority to any person named in the order and to any police officer not below the rank of an Inspector to enter the voluntary home and to remove the children therein to a place of safety.

(*9*) Where an order has been made for the removal of all children from such voluntary home, the home shall not be used for the reception of children without the consent of the Provincial Government.

Inspection of certified schools and visits to fit person institutions.

36. (*1*) Every certified school shall be liable to inspection at all times and in all its departments by the Chief Inspector, Inspector or Assistant Inspector, and shall be so inspected at least once in every year.

(*2*) The Chief Inspector, Inspector or Assistant Inspector shall also have a right to visit a fit person institution at any time :

Provided that where any such certified school or fit person institution is for the reception of girls mainly and such inspection or visit is not made or paid by the Chief Inspector, the visitor shall, wherever practicable, be a woman.

PART IV.

OFFICERS, THEIR POWERS AND DUTIES.

Appointment of officers.

37. (*1*) The Provincial Government may for the purposes of this Act appoint the following officers :—

(*a*) The Chief Inspector of Certified Schools.

(*b*) Inspectors and Assistant Inspectors of certified schools.

(*c*) The Probation officer.

(*d*) Such other officers as may be necessary.

(*2*) Any society recognized in this behalf by the [1][State] Government may also appoint a Probation officer.

(*3*) Notwithstanding anything contained in sub-section (*1*) or (*2*), a juvenile court or any court empowered under section 8 to exercise the powers of a juvenile court may, for the purposes of any particular case or proceeding, appoint any other person as a Probation officer, if in its opinion such appointment is expedient or necessary.

Supervision and control of Probation officers.

38. A Probation officer in the performance of his duties under this Act shall be an officer of the court, and shall be under the supervision and guidance of the juvenile court, where such court exists and [2][elsewhere of the court which passes any order under this Act in respect of the child.]

Nothing in this section shall derogate from the powers of supervision of the Chief Presidency Magistrate and the Chief Inspector of Certified Schools in Greater Bombay and the District Magistrate and the Chief Inspector of Certified Schools elsewhere.

Powers and duties of Probation officers and inspectors.

39. The powers and duties of the Chief Inspector, Inspectors and Assistant Inspectors of Certified Schools and of Probation officers shall be as those provided under the provisions of this Act and the rules made thereunder and in accordance with the general or special orders which the [1][State] Government or any officers authorised in this behalf may make for the purpose of carrying out the provisions of this Act.

PART V.

MEASURES FOR THE CARE AND PROTECTION OF DESTITUTE AND NEGLECTED CHILDREN, ETC.

Children found homeless, destitute, etc.

40. Any police officer, or other person authorised in this behalf in accordance with the rules made by the [1][State] Government, may bring—

(*i*) before a juvenile court if such court is established for the area and is sitting,

(*ii*) if a juvenile court is not established for the area or if it is not sitting, before a magistrate empowered under section 8 with the powers of a juvenile court, or

(*iii*) if there is no court of the kind specified in items (*i*) and (*ii*) above, before any magistrate

any person who in his opinion is a child and who—

(*a*) has no home, or is found wandering without any settled place of abode and without visible means of subsistence, or is found begging or is found doing for a consideration any act under circumstances contrary to the well-being of the child; or

(*b*) is destitute or is illegitimate without means of subsistence, other than that of charity, or has no parent or guardian, or has a parent or guardian unfit to exercise or incapable of exercising proper care and guardianship, or who is not exercising proper care and guardianship; or

(*c*) is known to associate or live with any prostitute or person or persons of criminal or drunken habits; or

(*d*) is lodging or residing in or frequently going to a place or places used for the purposes of prostitution; or

(*e*) is otherwise likely to fall into bad association or to be exposed to moral danger, or to enter upon a life of crime.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] These words were substituted for the words beginning with the word "elsewhere" and ending with the words "is situated" by Bom. 8 of 1954, s. 2. Schedule—Part III.

Procedure when Magistrate is not empowered to pass order under this Act.

41. When any magistrate not empowered to exercise the powers of a juvenile court is of opinion that a person brought before him is a child, he shall record such opinion and submit the proceedings and forward the child to the nearest juvenile court having jurisdiction in the case or where such court does not exist to the [1][Sessions Judge] to whom he is subordinate.

Police officer to make report if child has parent.

42. If the child requiring care and protection on any of the grounds mentioned in clauses (*a*) to (*e*) of section 40, has a parent or guardian who has the actual charge of, or control over, the child, the police officer or other person authorised under section 40 shall, in the first instance make a report to the juvenile court established for the area or if one has not been established to the nearest magistrate empowered under section 8 to exercise the powers of a juvenile court or to any other nearest magistrate.

Court or Magistrate may direct production of child by parent or guardian.

43. The juvenile court, magistrate, or the other court to which or whom a report is made under section 42, may call upon such parent or guardian to produce the child before it or him in order to show cause why the said child should not during the pendency of the proceedings, be removed from his care; and may on suitable sureties being offered for the safety of such child and for his being brought before it or him, permit the child to remain in the actual charge or control of his parent or guardian, or may immediately order his removal, if necessary by issuing a search warrant for the immediate production of the child to a place of safety, if it appears to the court or magistrate that the child is likely to be removed from the jurisdiction of the court or to be concealed.

Examination of police officer or person producing or reporting.

44. (*1*) The court before which a child is brought under section 40 or 41 shall examine the police officer or the authorised person who brought the child or made the report and record the substance of such examination and shall, as provided in section 43, send the child to a remand home for further inquiries.

(*2*) On the date fixed for the production of the child or for the inquiry or on any subsequent date to which the proceedings may be adjourned, the court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order committing the child to a certified school or to the care of a fit person should not be passed and make any further inquiry it thinks fit.

Committal of child to certified school or to fit person.

45. (*1*) If the court is satisfied on the inquiry that such person is a child and is as described within the provisions of section 40 and that it is expedient so to deal with him, the court may order him to be committed to a certified school or to the care of a fit person named by the court until such child attains the age of eighteen years, or in exceptional cases for a shorter period, the reasons for such shorter period to be stated in writing.

(*2*) The court which makes an order committing a child to the care of a relative or other fit person may, when making such order, require such relative or other person to execute a bond, with or without sureties, as the court may require, to be responsible for the good behaviour and well-being of the child and for the observance of such other conditions as the court may impose for securing that the child may lead an honest and industrious life.

(*3*) The court which makes an order committing a child to the care of a relative or other fit person under this section may in addition order that he be placed under supervision for any period not exceeding three years :

[1] These words were substituted for the words "District Magistrate or Sub-Divisional Magistrate" by Bom. 23 of 1951, s. 2, Schedule—Part III.

Provided that when the Court thinks fit, it may allow such child to remain in the custody of a parent or guardian with a direction that he be placed under supervision. on such parent or guardian executing a bond with or without sureties in a prescribed form, and the court may from time to time during the supervision period adjourn the case and compel the production of the child in court to satisfy itself that the conditions of the said bond are being carried out:

Provided further that if it appears to the court on receiving a report from the probation officer or otherwise, that there has been a breach of the supervision order it may, after making such inquiries as it deems fit, order the child in respect of whom the supervision order has been made, to be detained in a certified school or committed to the care of a fit person.

Sending of child having place of residence outside jurisdiction.

46. (*1*) In the case of a child whose ordinary place of residence lies outside the jurisdiction of the court before which it is brought, the court may, if satisfied after due inquiry that it is expedient so to do, send the child on his own bond back to a relative or a fit person who is fit and willing to receive him at his native place and exercise proper care and control of him.

(*2*) Any breach of the said bond shall render the child liable to be committed to a certified school or to the care of another fit person.

Uncontrollable children.

47. (*1*) Where the parent or guardian of a child complains to the juvenile court or if a juvenile court is not established for the area to a Magistrate empowered under section 8 to exercise the powers of a juvenile court that he is not able to control his child, the court or magistrate, as the case may be, if satisfied on inquiry that the case appears to be one of which cognizance should be taken, shall remand the child for observation or treatment and any further inquiries necessary.

(*2*) If the court or Magistrate is satisfied that it is expedient so to deal with the child under this Act, the court or Magistrate may order the child to be committed to a certified school, or a fit person institution.

(*3*) The court or Magistrate may also, if satisfied that home conditions are satisfactory and what is needed is supervision, commit the child to the care of the person or guardian or relative or any other proper person under a bond with or without sureties and place him under supervision for a period not exceeding three years.

PART VI.

SPECIAL OFFENCES IN RESPECT OF CHILDREN.

Punishment for cruelty to children.

48. (*1*) Whoever having the actual charge of, or control over, a child wilfully assaults, illtreats, neglects, abandons, or exposes him or causes or procures him to be assaulted, illtreated, neglected, abandoned or exposed or negligently fails to provide adequate food, clothes. or medical aid or lodging for a child in a manner likely to cause such child unnecessary mental and physical suffering shall, on conviction, be punished with imprisonment of either description for a term not exceeding two years or with fine which may extent to one thousand rupees or with both :

Provided that in the case of married juveniles the court trying the offence under this section may sanction its composition for reasons to be recorded in writing.

(*2*) The infliction of reasonable punishments on a child for a proper reason shall not be deemed to be an offence under this section.

Employing children for begging.

49. Whoever employs any child for the purposes of begging or causes any child to beg or whoever having the custody, charge or care of a child connives at or encourages the employment for the purpose of begging or the causing of a child to beg and whoever uses a child as an exhibit for the purpose of begging shall, on conviction be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to three hundred rupees or with both.

Penalty for being drunk while in charge of child, etc.

50. If any person is found drunk in any public street or other public place, whether a building or not, while having the charge of a child, and if such person is incapable by reason of his drunkenness of taking due care of the child, such person shall, on conviction, be punished with fine which may extend to two hundred rupees.

Penalty for giving intoxicating liquor or dangerous drug to child.

51. Whoever in any public street or other public place, whether a building or not, gives or causes to be given to any child any intoxicating liquor or dangerous drugs except upon the order of a duly qualified medical practitioner in case of sickness or other urgent cause shall, on conviction, be punished with fine which may extend to two hundred rupees.

Penalty for permitting child to enter places where liquor or dangerous drug is sold.

52. Whoever takes a child to any place where intoxicating liquor or dangerous drugs are sold or whoever being the proprietor, owner or a person in charge of such place permits a child to enter such place or whoever causes or procures a child to go to such place shall, on convication, be punished with fine which may extend to two hundred rupees.

Inciting child to bet or borrow.

53. Whoever by words either spoken or written or by signs, or otherwise, incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites or attempts to incite a child to borrow money or to enter into any transaction involving the borrowing of money shall, on conviction, be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Taking on pledge or purchasing articles from child.

54. Whoever takes an article on pledge from a child, whether offered by that child on his own behalf or on behalf of any person shall, on conviction, be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

Allowing or permitting child to be in brothel.

55. Whoever allows or permits a child over the age of four years to reside in or frequently go to a brothel shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Causing or encouraging seduction, etc.

56. (*1*) Whoever having the actual charge of, or control over, a girl under the age of eighteen years causes or encourages the seduction (which shall include inducement to indulge in immoral behaviour) or prostitution of that girl or causes or encourages any one other than her husband [1]* * * * * to have sexual intercourse with her shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

[1] The words "provided his wife has attained the age of fourteen years" were deleted by Bom. 53 of 1949, s. 2, First Schedule.

(2) For the purposes of this section a person shall be deemed to have caused or encouraged the seduction of a girl or to have induced her to behave immorally if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of, any prostitute, or person of known immoral character.

Seduction or outrage of modesty.

57. Whoever seduces or indulges in immoral behaviour with a girl under the age of eighteen years shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Young girls exposed to risk of seduction, etc.

58. If it appears to a court on the complaint of any person that a girl under the age of eighteen years is, with or without the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution, the court may direct the parent or guardian to enter into a recognisance to exercise due care and supervision in respect of such girl.

Exploitation of child employees.

59. (1) Whoever secures a child ostensibly for the purpose of menial employment or for labour in a dock, factory or other establishment, but in fact exploits the child for his own ends, withholds or lives on his earnings, shall, on conviction, be punished with fine which may extend to one thousand rupees.

(2) Whoever secures a child ostensibly for any of the purposes mentioned in sub-section (1), but exposes such child to the risk of seduction, sodomy, prostitution or other immoral conditions, shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

(3) Any person who avails himself of the labour of a child exploited in the manner referred to in sub-section (1) or (2) or for whose immoral gratification such child is used shall be liable as an abettor.

Penalty for abetting escape of child or youthful offender.

60. Whoever—

(a) knowingly assists or induces, directly or indirectly, a child detained in or placed out on licence, from a certified school or a fit person institution to escape from the school or fit person institution or from any person with whom, as the case may be, he has been placed out on licence, or any child to escape from the person to whose care he has been committed under the provisions of this Act, or

(b) knowingly harbours, conceals, connives at or prevents from returning to school or fit person institution or to any person with whom he is placed out on licence or to whose care he is committed under this Act, a child who has so escaped or knowingly assists or connives at so doing,

shall, on conviction, be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for use of voluntary home in contravention of section 35.

61. Whoever uses or knowingly permits to be used any voluntary home in contravention of the provisions of section 35 shall, on conviction, be punished with fine which may extend to five hundred rupees and to a further fine not exceeding fifty rupees in respect of each day during which the institution is so used or permitted to be used after the conviction.

Penalty for publication of report or pictures relating to children.

62. Whoever publishes any report or picture in contravention of the provisions of section 23 shall, on conviction, be punished with imprisonment of either description for a term not exceeding two months or with fine which may extend to five hundred rupees or with both.

Offences under this part cognizable

63. All offences under this part shall be cognizable.

PART VII.

YOUTHFUL OFFENDERS.

Bail of children arrested.

64. Where a boy or a girl apparently under the age of sixteen years is arrested on a charge of a nonbailable offence and cannot be brought forthwith before a court, the officer in charge of the police station or section to which such boy or girl is brought, may release the child on bail, if sufficient security is forthcoming, but shall not do so where the release of the child shall bring him into association with any reputed criminal or expose him to moral danger or where his release would defeat the ends of justice.

Custody of children not enlarged on bail.

65. (*1*) Where a boy or a girl apperently under the age of sixteen years having been arrested is not released under section 64 or otherwise, the officer in charge of the police station or section shall cause him or her to be detained in the prescribed manner until he or she can be brought before a juvenile court or a court empowered under section 8 to exercise the powers of a juvenile court.

(*2*) A court, on remanding or committing for trial a child who is not releasd on bail, shall order him to be detained in the prescribed manner.

Submission of information to Probation officer and officer in charge of remand home by Police After arrest.

66. Immediately after the arrest of a child, it shall be the duty of the police officer or any other person effecting the arrest. to inform the Probation officer and officer in charge of a remand home of such arrest in order to enable the said Probation officer and officer in charge of the remand home to proceed forthwith in obtaining information regarding his antecedents and family history and other material circumstances likely to assist the juvenile court in making final order.

Attendance of parent or guardian.

67. Where the child is arrested, the officer in charge of the police station or section o which he is brought shall cause the parent or guardian of the child, if he can be found, to be summoned at the court before which the child will appear

Sentences that may not be passed on child.

68. (*1*) Notwithstanding anything to the countrary contained in any law, no youthful offender shall be sentenced to death or transportation or imprisonment.

(*2*) When a child is found have committed an offence of so serious a nature that the court is of opinion that no punishment, which under the provisions of this Act it is authorised to inflict, is sufficient or when the coart is satisfied that the child is of so unruly or of so depraved a character that he cannot be committed to a certified school or detained in a place of safety and that none of the other methods in which the case may be legally dealt with is suitable, the court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the Provincial Government.

Expressions "conviction and sentence" not to be used in relation to children.

69. Save as provided in this Act, the words "conviction" and "sentence" shall cease to be used in relation to children dealt with under this Act and any reference in any enactment to a person convicted, a conviction or a sentence shall in the case of a child be construed as including reference to a person found guilty of an offence, a finding of guilty or an order made upon such a finding, as the case may be.

No proceedings under Chapter VIII of Criminal Procedure Code against child.

70. Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898, no proceedings shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code.

V of 1898.

Commitment of child to certified school or fit person institution.

71. Where a child is found to have committed an offence, the court, if satisfied on inquiry that it is expedient so to deal with the child, may order him to be committed to a certified school or a fit person institution for such period of detention as will not, subject to the provisions of section 5, extend beyond the time when the child will attain the age of eighteen years or in exceptional cases for a shorter period, the reasons for such shorter period to be recorded in writing.

Other order of the Court.

72. A Court may, if it shall think fit, instead of directing any youthful offender to be detained in a certified school or committed to the care of a fit person institution under section 71—

(*i*) order him to be discharged after due admonition ;

(*ii*) without passing any final order, direct that he be released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person on such parent, guardian , relative or person executing a bond, with or without sureties, as the court may require, to be responsible for the good behaviour and well-being of the youthful offender for any period not exceeding three years and for the observance of such other conditions as the court may impose for securing that the youthful offender may lead an honest and industrious life ;

(*iii*) if the offence committed by the youthful offender is punishable with fine and the youthful offender himself is over the age of fourteen years, order the offender to pay a fine.

Repatriation.

73. (*1*) In the case of a youthful offender whose ordinary place of residence lies outside the jurisdiction of the court before which he is brought, if the court is satisfied after due inquiry that it is expedient so to do, the court may send the youthful offender on his own bond back to a relative or a fit person, who is fit and willing to receive him at his native place and exercise proper care and control of him, notwithstanding the fact that the youthful offender has to be sent to a place outside the Province.

(*2*) Any breach of the said bond shall render the youthful offender, if found at any time at any place within the Province, liable to be committed to a certified school or to the care of another fit person.

Power to order parent to pay fine, etc., instead of child.

74. (*1*) Where the offence committed is punishable with fine and if the youthful offender is under fourteen years of age, the court shall order that the fine be paid by the parent or guardian of the child, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child.

(*2*) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(*3*) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Release of youthful offenders under supervision.

75. The court shall wherever possible order that the youthful offender released under section 72 be placed under supervision :

Provided that if it appears to the court on receiving a repart from the Probation officer or otherwise, than the youthful offender has not been of good behaviour during the period of supervision, it may proceed to pass such final order as it would have done had it not placed the youthful offender on probation of good conduct.

Postponement *sine die*.

76. Notwithstanding anything contained in the foregoing provision, the court may adjourn the case of a youthful offender *sine die*, and may re-open at the stage of the preceedigs at which it was left when adjourned, on additional grounds or material being placed before the court.

Court empowered to exercise powers under one or more of preceding provisions.

77. In passing an order in respect of a youthful offender under this Part, it shall be lawful to the court to exercise its powers under any one or more of the foregoing provisions at the same time, if it is necessary and expedient to do so in the interests of the offender.

PART VIII.

MEASURES FOR DETENTION ETC., OF CHILDREN AND YOUTHFUL OFFENDERS.

Detention of child in place of safety.

78. (*1*) Any police officer, not below the rank of sub-inspector, or a police officer or a person authorised in this behalf in accordance with rules made by the Provincial Government may take to a place of safety any child in respect of whom an offence has been, or there is reason to believe has been, or is likely to be committed.

(*2*) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may be detained until he can be brought before the court :

Provided that such detention shall not in the absence of a special order of the court exceed a period of twenty-four hours exclusive of the time necessary for the journey from the place of detention to the court.

(*3*) The court may thereupon make such order as hereinafter provided.

Court's powers for care detention of child.

79. (*1*) Where it appears to the court that an offence as stated in section 78 has been committed or is likely to be committed in respect of any child who is brought before it and that it is expedient in the interests of the child that action should be taken under this Act, the court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for the institution of proceedings against the person for having committed the offence in respect of the child or for the purpose of taking such other lawful action as may be necessary.

(*2*) The order of detention made under sub-section (*1*) shall remain in force until such time as the proceeding instituted against any person for an offence referred to in sub-section (*1*) terminate in either conviction, discharge or acquittal :

Provided that if the proceedings terminated in conviction of the person, the order of detention shall remain in force for a further period of one month.

(*3*) An order passed under this section shall be given effect to, notwithstanding that any person claims the custody of the child.

Victimised child to be sent to Juvenile Court or [2][First Class Magistrate].

80. Any court by which a person is convicted of having committed an offence in respect of a child, or before which a person is brought for trial for any such offence or by which a person is bound over to keep the peace towards a child shall direct that the child against whom the offence has been committed, or in relation to the alleged offence against whom the trial is in progress, or in relation to keeping the peace towards whom the adult concerned has been bound over shall be produced before a juvenile court with a view to that court making such interim and final orders as may be proper, provided that in an area where no juvenile court has been established, [1][the Court if it is not competent to exercise the powers of a juvenile court under section 8 shall submit the proceedings and forward the child to the salaried First Class Magistrate.]

Order for committal of victimised children.

81. The court before which a child is produced in accordance with section 79 may order the child in the prescribed manner—

(*a*) to be committed to a certified school or fit person institution, until such child attains the age of eighteen years or in exceptional cases for a shorter period the reasons for such shorter period to be recorded in writing, or

(*b*) to be committed to the care of a relative or other fit person, on bond, with or without surety, as the court may require, such relative or fit person being willing and capable of exercising proper care, control and protection of the child and of observing such other conditions, including, where necessary supervision for any period not exceeding three years as the court may impose in the interest of the child:

Provided that, if the child has a parent or guardian, fit and capable, in the opinion of the court, of exercising proper care, control and protection, the court may allow the child to remain in his custody or may commit the child to his care on bond, with or without surety, in a prescribed form and for the observance of such conditions as the court may impose in the interest of the child.

Supervision of victimised children.

82. The court which makes an order committing a child to the care of his parent, guardian or other fit person under the foregoing provisions may in addition order that he be placed under supervision.

Breach of supervision

83. If it appears to the court on receiving a report from the Probation officer or otherwise, that there has been a breach of the supervision order relating to the child in respect of whom the supervision order had been passed, it may after making such inquiries as it deems fit, order the child to be detained in a certified school or to the care of a fit person.

Repatriation of victimised child.

84. (*1*) In the case of a child, the ordinary place of whose residence is outside the jurisdiction of the court before which he is produced if the court is satisfied after due inquiry that it is expedient so to deal with the child, the court may order the child to be sent on his own bond back to a relative or a fit person who is fit and

[1] These words and figure were substituted for the words beginning with the words "the Court shall submit" and ending with the words "it is subordinate" by Bom. 23 of 1951, s. 2, Schedule.
[2] These words were substituted for the words "District Magistrate", *ibid*, s. 2, Schedule—Part III.

willing to receive him at his native place and exercise proper care and control of him notwithstanding the fact that the place of residence of such child may be at any place outside the [1][State].

(*2*) For breach of a bond taken under sub-section (*1*) the child shall be liable to be committed to a certified school or to the care of a fit person if found again in the [1][State].

Reasons to be recorded for order under sections 81 to 84.

85. The reasons for every order made under sections 81 to 84 shall be recorded in writing and may be made by the court in the absence of the child.

Order under sections 81 to 84 to be in force even if conviction of alleged victimisation is set aside.

86. Where an order is made under sections 81 to 84 and the conviction or order binding the person to keep the peace is set aside or the person is acquitted, the order made under the said sections shall remain in force but it shall be open to the person so acquitted, or discharged from his bond to keep the peace to apply for a reconsideration of the said order in consequence of the altered circumstances.

Warrant to search for child.

87. (*1*) If it appears to a juvenile court or any other court duly empowered under this Act from information on oath or solemn affirmation laid by any person who, in its opinion, is acting in the interests of the child, that there is reasonable cause to suspect that an offence has been or is being committed or unless immediate steps be taken will be committed in respect of the child, the court may issue a warrant authorising any police officer named therein to search for such child and if it is found that he has been or is being wilfully ill-treated or neglected in manner aforesaid or that any offence has been or is being committed in respect of the child to take him to and detain him in a place of safety until he can be brought before it and the court before whom the child is brought may in the first instance remand him in the prescribed manner to a place of safety.

(*2*) The court issuing a warrant under this section may in its discretion by the same warrant direct that any person accused of any offence in respect of the child be apprehended and brought before it, or direct that if such person executes a bond with sufficient sureties for his attendance before the magistrate at a specified time and thereafter until otherwise directed by the magistrate, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(*3*) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desire, and may also, if the magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(*4*) In any information or warrant under this section the name of the child shall be given if known.

Information to Probation officer and officer-in-charge of remand home by olice or any person effecting arrest.

88. (*1*) It shall be the duty of a police officer immediately after effecting the arrest of a child to inform a Probation officer and officer in charge of a remand home for the purpose stated in section 66.

(*2*) It shall be the duty of any other person effecting such arrest to inform a Probation officer and officer in charge of a remand home for the like purpose as provided in section 66.

(*3*) The juvenile court for the purpose of such inquiry, may remand the child even in his absence from time to time for a period of not more than fourteen days at a time until available information has been obtained.

[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

PART IX.

MAINTENANCE AND TREATMENT OF COMMITTED CHILDREN.

Period of detention.

89. Notwithstanding anything contained in this Act, the period of detention in the case of a person under the age of fifteen years shall be such as will result in the person being detained until he reaches the age of eighteen years:

Provided that the period of detention in the case of a child over fifteen years of age shall be not less than two years:

Provided further that where special circumstances exist and the interest of the child so demands, it shall be open to the court for reasons to be recorded in writing, to pass an order for a shorter period of detention.

Contribution of parents.

90. (*1*) The court which makes an order for the detention of a child or youthful offender in a certified school or for the committal of a child or youthful offender to the care of a relative or other fit person may make an order on the parent or other person liable to maintain the child, or youthful offender, to contribute to his maintenance, if able to do so, in the prescribed manner.

(*2*) The court before making any order under sub-section (*1*) shall inquire into the circumstances of the parent or other person liable to maintain the youthful offender or child and shall record evidence, if any, in the presence of the parent or such other person as the case may be.

(*3*) Any order made under this section may be varied by the court on an application made to it by the party liable or otherwise.

(*4*) The person liable to maintain a child or youthful offender shall for the purposes of sub-section (*1*) include in the case of illegitimacy his putative father:

Provided that where the child or youthful offender is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1898, the court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them, as the case may be, towards the maintenance of the child or youthful offender.

V of 1898.

(*5*) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1898.

V of 1898.

Provision as to religion.

91. (*1*) In determining the certified school, fit person or other person to whose custody a child is to be committed or entrusted under this Act, the Court shall ascertain the religious denomination of the child and shall, if possible, in selecting such certified school, fit person or other person have regard to the facilities which are afforded for instruction in his religion.

(*2*) When a child is committed to the care of a certified school in which facilities for instruction is his religion are not afforded, or in entrusted to the care of a fit person or other person under circumstances in which it appears that no special facilities for the bringing up of the child in his religion exist, the authorities of such certified school or such fit person, or such other person shall not bring the child up in any religion other than his own.

(*3*) Where it is brought to the notice of the Chief Inspector of Certified Schools or of the court that a breach of sub-section (*2*) has been committed, it shall be open to the Chief Inspector or the court to transfer the child from the custody of such institution or person.

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Placing out on licence.

92. (*1*) Subject to the prescribed conditions, the Chief Inspector of Certified Schools may, at any time after the expiration of six months from the commencement of the detention of a child in a certified school or fit person institution, on the recommendation of the visitors or managers of the certified school or fit person institution, or on application by a parent, other relation or guardian, reinforced by local inquiries made through the Bombay Province Probation and After-Care Association, or otherwise, release such child from the school or institution and grant him a written licence in the prescribed form and on the prescribed condition permitting him to live under the supervision and authority of such responsible person or society willing to take charge of the child and approved by the Chief Inspector.

(*2*) Any licence granted under sub-section (*1*) shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

(*3*) The Chief Inspector may at any time by order in writing revoke any licence and order the child to return to the certified school or fit person institution and shall do so at the desire of the person or society with whom or under whose supervision he is licensed to live. If the child refuses or fails to return to the school or fit person institution the Chief Inspector may, if necessary, call for the papers and deal with the case himself making such order as he thinks fit in the interest of the child or direct the arrest of the child and cause him to be placed before the court or taken back to the school or fit person institution.

(*4*) When a licence has been revoked or forfeited and the child or youthful offender, refusing or failing to return to the school or fit person institution, has been arrested and placed before the court under the provisions of sub-section (*3*) the court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child or youthful offender issue a summons requiring the parent or guardian to attend at the court on such day as may as be specified in the summons and to produce the child or youthful offender, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, on conviction, be punished with fine which may extend to fifty rupees.

(*5*) Where a parent or guardian is directed to pay a fine under this section the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

(*6*) The time during which a child is absent from a certified school or fit person institution in pursuance of a licence granted under this section shall be deemed to be part of the time of his detention in the school or institution; provided that, where a child has failed to return to the school or institution on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school or institution.

Action by Police with escaped children.

93. (*1*) Notwithstanding anything to the contrary contained in any law for the time being in force, any police officer may arrest without a warrant a child who has escaped from a certified school or a fit person institution or from the supervision of a society or a person under whose supervision he was directed to remain, and shall send the child back to the certified school, institution, society or the person without registering any offence or prosecuting the child, and the said child shall not be deemed to have committed any offence by reason of such escape but he shall be dealt with by the authorities of the institution concerned in such manner as they think fit.

(*2*) When a child absconding from a certified school or fit person has been arrested at a different place, he shall be detained in a place of safety pending his removal to the certified school or fit person.

PART X.

APPEALS.

Appeals.

94. (*1*) Any person aggrieved by a final order may appeal to the courts hereinafter mentioned.

(*2*) If a final order is passed—

(*a*) by a juvenile court, an appeal shall lie in the Greater Bombay to the Chief Presidency Magistrate and in other places to the [1][Court of Session];

(*b*) by a Magistrate (not being a Presidency Magistrate) empowered under section 8 to exercise the powers of a juvenile court, an appeal shall lie to the Court of Session;

(*c*) by a Presidency Magistrate or a Court of Session, an appeal shall lie to the High Court.

(*3*) Except as provided in this section no appeal shall lie from any order passed under this Act by a juvenile court or any other court empowered to exercise the powers of a juvenile court under section 8.

Application of Criminal Procedure Code to appeals.

V of 1898.

95. The provisions of sections 419 to 431 (both inclusive) of the Code of Criminal Procedure, 1898, shall *mutatis mutandis* apply to appeals against final orders as if the said orders were the orders of conviction and sentence passed by a Criminal Court.

Period of limitation of appeals.

96. (*1*) The period of limitation for an appeal against a final order shall be thirty days in the case of appeals to courts other than the High Court and sixty days in the case of an appeal to the High Court from the date of the order appealed against.

IX of 1908.

(*2*) The provisions of sections 5, 7 and 12 of the Indian Limitation Act, 1908, shall apply to the filing of such appeals.

PART XI.

MISCELLANEOUS.

Discharge and transfer.

97. (*1*) The [2][State] Government may at any time order a child or youthful offender to be discharged from a certified school or fit person institution, either absolutely or on such conditions as the [2][State] Government approves.

Bom. XVIII of 1929.

(*2*) (*a*) The [2][State] Government may order a youthful offender who has attained the age of sixteen years detained in a certified school to be transferred to a Borstal School established under the Bombay Borstal Schools Act, 1929, in the interest of discipline or for other special reasons;

(*b*) any boy or girl over the age of sixteen years, who has been released on licence and who has committed a breach of licence conditions and whom it is not advisable to send back to his own school or institution, may be transferred to a Borstal School:

Provided that the whole period of the detention of the child or youthful offender shall not be increased by the transfer.

Bom. XVIII of 1929.

(*3*) Upon the transfer of a child or youthful offender to a Borstal School under sub-section (*2*) the provisions of the Bombay Borstal Schools Act, 1929, shall apply to such offender as if he had been originally ordered to be detained in a Borstal School under that Act.

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[1] These words were substituted for the words "District Magistrate" by Bom. 23 of 1951, s. 2, Schedule—Part III.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*4*) The [1][State] Government may at any time in its discretion discharge a child from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the [1][State] Government approves.

Transfers between institutions and those of like nature in different parts of India.

98. (*1*) The [1][State] Government may in consultation with the managers of any certified school or fit person institution, consent to the transfer to that school or institution of any child or youthful offender in respect of whom an order has been made by a competent authority in any other part of India of the nature of an order under this Act directing him to be sent to a certified or reformatory school or institution of a like nature, and upon such transfer the provisions of this Act shall apply to such child or youthful offender.

(*2*) The [1][State] Government may direct any child or youthful offender to be transferred from any certified or reformatory school or fit person institution to any school or institution of a like nature in any other part of India [2]* * * in respect of which provision similar to that in the [3][State] of Bombay is made by the Government of that part [4]* * under any law in force therein.

Provided that no such child or youthful offender shall be transferred under this section to any other [3][State] [4]* * * without the consent of the Government [5][of that State.]

Transfer of children of unsound mind or suffering from leprosy.

99. (*1*) Where it appears to the [1][State] Government that any child detained in a certified school or fit person institution under any order of a court is of unsound mind or a leper the [1][State] Government may, by an order setting forth the grounds of belief that the child is of unsound mind or a leper, order his removal to a mental hospital or leper asylum or other place of safe custody, there to be kept and treated as the [1][State] Government directs during the remainder of the term for which he has been ordered to be detained or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the child or of others that he should be further detained under medical care or treatment then until he is discharged according to law.

(*2*) Where it appears to the [1][State] Government that the child has become of sound mind, or is cured of leprosy, the [1][State] Government shall, by an order directed to the person having charge of the child if still liable to be kept in custody, send him to the certified school or fit person institution from which he was removed, or if the child is no longer liable to be kept in custody, order him to be discharged.

(*3*) The provisions of section 31 of the Indian Lunacy Act, 1912, or (subject to the provisions of sub-section (*2*)) of section 14 of the Lepers Act, 1898, shall apply to every child confined in a mental hospital or leper asylum under sub-section (*1*) after the expiration of the period for which he was ordered to be detained; and the time during which a child is confined in a mental hospital or leper asylum under that sub-section shall be reckoned as part of the period for which he may have been ordered by the court to be detained: IV of 1912. III of 1898.

Provided that where the removal of a child due to unsoundness of mind or leprosy is immediately necessary, it shall be open to the authorities of the institution in which the child is detained to apply to a court having jurisdiction under the Indian Lunacy Act, 1912, or the Lepers Act, 1898, as the case may be, for an immediate order of committal to mental hospital or a leper asylum until such time as the orders of the [1][State] Government can be obtained in the matter. IV of 1912. III of 1898.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] The words "or in an Acceding State" were omitted, *ibid.*
[3] This word was substituted for the word "Province", *ibid.*
[4] The words "or in an Acceding State" "or State" were omitted, *ibid.*
[5] These words were substituted for the word "concerned", *ibid.*

Transfer from one institution to another.

100. The Chief Inspector may direct any child or youthful offender to be transferred from one institution to another whether a certified school or fit person institution :

Provided that the total period of detention of the child or youthful offender shall not be increased by such transfer.

Compensation for false and frivolous or vexatious information.

101. (*1*) If in any case in which an information has been laid by any person under the provisions of section 87, the magistrate after such inquiry as he may deem necessary is of opinion that such information was flase and either frivolous or vexatious, the magistrate may for reasons to be recoded in writing direct that compensation to such an amount not exceeding one hundred rupees as he may determine be paid by such informer to the person against whom the information was laid.

(*2*) Before making any order for the payment of compensation, the magistrate shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.

(*3*) The magistrate may by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a term not exceeding thirty days.

XLV of 1860.

(*4*) When any person is imprisoned under sub-section (*3*), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply.

(*5*) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil or criminal liability in respect of the information given by him but any amount paid as compensation shall be taken into account in any subsequent civil suit relating to such matter.

(*6*) When an order for the payment of compensation is made under sub-section (*1*), the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of an appeal has expired.

Removal of disqualification attaching to convictions.

102. When a youthful offender is found to have committed any offence, the fact that he has been so found shall not have any effect under section 75 of the Indian Penal Code or section 565 of the Code of Criminal Procedure, 1898, or operate as a disqualification for office or any employment or election under any law.

XLV of 1860. V of 1898.

Power to amend orders.

103. Without prejudice to the powers of courts of appeal and revision any custody order, supervision order or probation order may be amended by the court which made such order in respect of the person named as custodian, supervisor or Probation officer and such other details as may be deemed necessary, provided that in the case of an order committing a child to an institution no such order shall, subject to the proviso hereinbelow, be amended except in relation to the period of duration, such amendment being by way of extension of the period only :

Provided that in case of emergency and for immediate necessity a committal order may be varied by way of change in the institution to which the order relates, such variation being subject to confirmation by the Chief Inspector of Certified Schools.

Control over custodian of child.

104. Any person to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care for the period stated by the court notwithstanding that he is claimed by his parent or any other person.

Power to authorities to send children to remand homes or voluntary homes instead of to certified schools or fit person institutions.

105. Whenever under the provisions of this Act it is provided that a child shall be committed to a certified school or a fit person institution, it shall be lawful for the authority concerned to order such child to be sent to a remand home or a voluntary home instead, if, in the opinion of such authority, such order shall be in the interest of the child.

Bonds taken under the Act.

106. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to bonds taken under this Act. V of 1898.

Probation officers, Chief Inspector and Inspectors and persons authorised to be deemed to be public servants.

107. The Probation officers, Inspectors of Certified Schools including the Chief Inspector of Certified Schools and all other persons authorised or entitled to act under any of the provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection of action taken under this Act.

108. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Rules.

109. (*1*) The Provincial Government may make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters, namely :—

(*a*) the procedure to be followed by juvenile courts and other courts empowered to exercise the powers of juvenile courts under section 8 in the trial of cases and the conduct of proceedings under the Act;

(*b*) the places at which, days on which and the manner in which a juvenile court shall hold its sittings under sub-section (*1*) of section 12 ;

(*c*) the conditions subject to which institutions and associations shall be recognized as approved places for the purpose of sub-section (*1*) of section 20 ;

(*d*) the establishment or certification, managements, maintenance, records and accounts of certified schools ; the education and industrial training of inmates in such institutions, and their leave of absence ; the appointment of visitors and their tenure of office ; the inspection of such certified schools and other institutions for the reception of [1][***] children ; and the internal management and discipline of schools either established or certified by the Provincial Gavernment, and release on license of inmates therein ;

(*e*) the conditions subject to which institutions and associations shall be recognised as " fit person institutions " and " approved places " under section 27 ;

(*f*) the powers and duties of Chief Inspectors, Inspectors and Assistant Inspectors of Certified Schools and Probation officers under section 39 ;

(*g*) the recruitment and training of personnel responsible for work under the Act ;

(*h*) the conditions in which societies may be recognised by the Provincial Government for providing Probation officers, their employment and matters incidental to their appointment, authorization, resignation and removal, and remuneration and expenses payable to them ;

[1] The word " poor " was deleted by Bom. 53 of 1949, s. 2, First Schedule.

(*i*) the manner of authorising persons for the purposes of sections 40 and 78;

(*j*) the manner in which a child or youthful offender shall be sent back to his native place under sections 46 and 73;

(*k*) the manner in which children shall be detained in custody by officers in charge of police stations or sections under sub-section (*1*) and the manner in which children shall be ordered to be detained by courts under sub-section (*2*), of section 65;

(*l*) the manner in which a child shall be ordered to be committed to a certified school or fit person institution or to the care of a relative or other fit person under clauses (*a*) and (*b*) of, and the form of bond under the proviso to section 81;

(*m*) the manner in which a child shall be remanded under sub-section (*1*) of section 87;

(*n*) the manner in which contribution for the maintenance of a child may be ordered to be paid under sub-section (*1*) of section 90;

(*o*) the conditions under which a child may be released from a certified school or fit person institution on licence and the form and conditions of such licence under sub-section (*1*) of section 92;

(*p*) the conditions subject to which children may be committed to the care of persons under this Act and the obligations of such persons towards the children so committed;

(*q*) any other matter which is or may be prescribed under the Act.

(*3*) The power to make rules under this Act shall be subject to the condition of previous publication.

(*4*) The rules made under this Act shall be published in the *Official Gazette* and on such publication shall have effect as if enacted in this Act.

Bom. XIII of 1924.

110. The Bombay Children Act, 1924. is hereby repealed:

Repeal of Bom. XIII of 1924.

Provided that—

(*a*) juvenile courts established under the repealed Act shall be deemed to be juvenile courts established under this Act;

(*b*) cert fied schools established or certified fit person institutions, remand homes, approved places and voluntary homes recognized under the repealed Act shall be deemed to be recognized under this Act;

(*c*) all licences and certificates granted and transfers made under the repealed Act shall be deemed to be granted or made under this Act;

(*d*) all cases, proceedings and appeals pending before any court under the repealed Act shall be continued and disposed of by the said courts notwithstanding anything in this Act as if they were cases, proceedings and appeals under this Act[1];

(*e*) all appeals against orders of courts appointed under the repealed Act which would have lain under that Act shall be deemed to be appeals from orders made by courts under this Act and shall be presented to the courts empowered to hear appeals under this Act and shall be disposed of accordingly;

(*f*) any appointment, notification, notice, order, rule or form made or issued under the repealed Act shall continue to be in force and be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued unde this Act.